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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,746	01/22/2004	Robert C. Meier	14420US02	5595
23446	7590	06/14/2005	EXAMINER	
MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			ZIMMERMAN, BRIAN A	
			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

in

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,746	<b>Applicant(s)</b> MEIER, ROBERT C.	
	<b>Examiner</b> Brian A. Zimmerman	<b>Art Unit</b> 2635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21,22,25,27-34 and 36-40 is/are rejected.
- 7) ☒ Claim(s) 23,24,26,35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 21,22,25,31,32,33,34,38,39 and 40 are rejected under 35 U.S.C. 102(e) as anticipated by Kamerman.

Kamerman shows a method of beginning a data exchange over a wireless communication channel, see col. 3 lines 26+. Kamerman shows waiting a first period of time and detecting activity on the channel see col. 5 lines 15+ and col. 11 lines 10+. When no activity has been detected during the first time period, the sending device attempts to initiate communication, col. 4 lines 57+. Kamerman shows sending CTS and RTS signals between the devices in an appropriate manner consistent with 802.3 standards and therefore teach these packets occurring within a second time period. The first period is 56 microseconds plus a random period that is an even multiple of 40 additional microseconds, while the second interframe period is 16 microseconds, see col. 10 lines 12+ and col. 11 lines 10+.

***Claim Rejections - 35 USC § 103***

2. Claims 21,22,25,27-29,31,32,33,34,36,38,39 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Kamerman (5164942) as applied to claims 21,22,25,31,32,33,34,38,39 and 40 above, and further in view of the common techniques in the art at the time of the invention.

Art Unit: 2635

As an alternative interpretation of the claims discussed above, it is well held that 802.3 Ethernet uses acknowledgement packets from the destination station to the sending station to acknowledge the received packet. It is also well held that if the sending station does not receive these ACK packets within a second time period it schedules to resend the "assumed" lost packet. Therefore, the use of ACK signals in 802.3 Ethernet also reads on the claimed limitation and the use of ACK signals for positive acknowledgement is commonly used as one of the known alternatives in 802.3 Ethernet and therefore would have been an obvious alternative acknowledgement scheme to use in the Kamerman system since Kamerman specifically discusses the use of common 802.3 Ethernet protocols in their wireless system, see col. 4 lines 42+. Regarding the limitations to the length of the packets, it is also well held that 802.3 Ethernet packets have a maximum predetermined length (512 bits) as claimed.

3. Claims 23,24 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed 3/22/05 have been fully considered but they are not persuasive.

The applicant argues that Kamerman does not include "waiting, by the sending device, a period of time (that is at least as long as the first time period) and detecting no communication on the (wireless) channel during the period of time." Kamerman's abstract states that the system uses a CSMA/CD controller in a CSMA/CA technique to avoid collisions. CSMA/CD refers to Carrier Sense Multiple Access with Collision Detection. Standard Ethernet networks use CSMA/CD to physically monitor the traffic on the line at participating stations. If no transmission is taking place at the time, the particular station can transmit. If two stations attempt to transmit simultaneously, this causes a collision, which is detected by all participating stations. After a time interval, the stations that collided attempt to transmit again. If another collision occurs, the time intervals from which the random waiting time is selected are increased step by step. This is known as exponential back off. Using this as a CSMA/CA (see abstract) technique as explained by Kamerman provides a short carrier detect time where the device is looking for the carrier of another device prior to transmitting a signal itself. See also col. 9 lines 1+. On col. 10 lines 12-40 Kamerman discusses the transmitting station sending a simulated collision so that all other stations enter a back off period, therefore the other stations are listening and waiting until a time period has expired prior to transmitting a signal themselves.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2635

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Brian A. Zimmerman', is positioned above the printed name.

Brian A. Zimmerman  
Primary Examiner  
Art Unit 2635

BAZ